



Homes  
England

Date: 10 February 2025

Our Ref: RFI4853

Tel: 0300 1234 500

Email: [infogov@homesengland.gov.uk](mailto:infogov@homesengland.gov.uk)

[REDACTED]  
By Email Only

Dear [REDACTED]

**RE: Request for Information – RFI4853**

Thank you for your request for information, which was processed under the Environmental Information Regulations 2004 (EIR). Firstly, please accept our sincere apologies for the length of time it has taken to issue this response to you. Our handling of your request has fallen below the level of service we aim to provide and below the standards set out in the EIR. We would also like to take this opportunity to apologise further for failing to keep you updated as to the progress of your request.

You requested the following information:

**Please provide copies of all correspondence relating to following: -**

- 1. The funding Agency's consent for the Council to vary the original development Agreement dated 2nd November 2005 which the Council concluded with their chosen Master Developers following a procurement process that satisfied the conditions set out in the JFA.**
- 2. Confirmation that the Agency's consent complied the Council's obligations under the public procurement process and whether or not the Agency's advised the Council to contact any of the 16 original failed bidders.**
- 3. The funding Agency's consent to vary the JFA, to enable the Council to disposal of the Luneside East land for the sum of £170,000 and not the £1,690,500 minimum stipulated in the JFA.**
- 4. Confirmation that the Agency's were satisfied that the sale of the Luneside East land for the sum of £170,000 fulfilled the Agency's and Council's obligation to secure "best consideration".**

2<sup>nd</sup> Floor  
The Lumen  
St James Boulevard  
Newcastle upon Tyne  
NE4 5BZ

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**5. The funding Agency's consent for the Council procuring an additional £4 million investment for the Master Developers from Lancashire County Council and that the Agency's were satisfied that the additional funding did not prejudice the terms and conditions of the JFA and complied with state aid rules.**

**6. The funding Agency's consent to exclude affordable homes and the 8,000 sq. m of business floorspace at Luneside East. The business floorspace being the subject of circa £2.5 million of ERDF funding (JFA Annexure 1).**

**7. The funding Agency's consent for the alternative Student Housing scheme.**

**8. The funding Agency's attempts if any to clawback all or any part of the circa £10 million funding provided for the Comprehensive Luneside East "Urban Village" scheme. If the funding Agency's have not sought to clawback all or any part of the funding please provide the reasons why not.**

For clarification purposes, that land referenced in your request is the land at Luneside East Lancaster development, and your reference to a 'JFA' is to a joint funding agreement between the Northwest Development Agency, the Urban Regeneration Agency and Lancaster City Council

## **Response**

We can confirm that we do hold some of the requested information. However, we have determined that to comply with your request it would present a disproportionate burden on our resources. We therefore rely on regulation 12(4)(b) of the EIR exception that your request is manifestly unreasonable.

The full text of the legislation can be found on the following link and we have quoted regulation 12(4)(b) below for ease.

<https://www.legislation.gov.uk/ukxi/2004/3391/regulation/12>

## **Regulation 12(4)(b) – Manifestly Unreasonable**

Regulation 12(4)(b) of the EIR provides an exception to the duty to disclose environmental information where the request is manifestly unreasonable. Your request engages this exception because the information we hold relating to the Luneside East Lancaster development comprises a substantial volume

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of documentation and information. We consider that identifying the full extent of the information that falls within the scope of your request, and reviewing that information to determine whether or not it is subject to an exception would cause a disproportionate burden on Homes England's resources.

To enable us to come to this conclusion we searched our electronic filing system and identified that we hold in excess of 1465 electronic documents relating to Luneside East. We also conducted a search of our manual records and identified that we hold 60 files relating to Luneside East, from 1990 to 2013. The titles of the files indicate that the vast majority of the files would likely to contain information that falls within the scope of your request. We estimate that there will likely be thousands of pages of information within the manual files alone. If we were to undertake the exercise of reviewing the file and we identified information that was within the scope of your request, that information would then need to be manually scanned to create an electronic copy and then reviewed for the application of the EIR, with a public interest test conducted where appropriate. We consider that given the nature of the information, regulation 13 of the EIR – personal data and regulation 12(5)(e) of the EIR – confidentiality of commercial or industrial information would likely be engaged.

Your request for "all copies of correspondence relating to..." means that in order to comply fully with your request, we would need to review each document to determine whether or not it related to each of the eight questions raised in your request for information.

We conducted a sampling exercise of the electronic files and identified that we do hold some of the requested information. We carried out a manual search over a 10 hour period and located information relating to the development agreement, consent and associated correspondence, however, we were not able to gain assurance that this was a complete record and that all correspondence related to the eight individual matters raised in your request.

In the earlier stages of handling your request, we thought that we may have been able to rely on regulation 7(1) of the EIR, which would permit Homes England to extend the time limit for compliance to a maximum of 40 working days in order to facilitate compliance. However, after having used this time we still consider that the complexity and volume of information requested means that it is impracticable to comply with the request within 40 working days. We should have come to the conclusion that the exception contained at 12(4)(b) of the EIR was engaged sooner. Again, please accept our apologies and the resulting delay in providing this response to you.

### **Public Interest Test**

2<sup>nd</sup> Floor  
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Regulation 12(4)(b) of the EIR is subject to the Public Interest Test. Once the exception has been engaged it is then necessary to consider the balance of the public interest in maintaining the exception or disclosing the information.

Under regulation 12(2) of the EIR Homes England must apply a presumption in favour of disclosure, in both engaging the exception and carrying out the public interest test. In relation to engaging the exception, this means that there must be clear evidence that disclosure would have the adverse effect listed in regulation 12(4)(b) of the EIR.

Public interest in favour of disclosure:

- Homes England acknowledges that there is a presumption in favour of disclosure regarding environmental information as well as a public interest in promoting transparency in how we undertake our work and allocate public money;
- Homes England recognise that there has been a change to the original intended use of the land, to the eventual use of the land, and there is public interest in transparency and accountability in public use of funds and this process; and
- Homes England acknowledges that there is a public interest in development processes and the robustness of the applications and management of public funds in such developments.

Public interest in maintaining the exception:

- Homes England is a small public authority with limited resources. Identifying the environmental information that would engage regulation 12(5)(e) and regulation 13 in all of the documents identified in scope of this request would place a disproportionate burden on our resources and would prevent us from answering other requests and therefore there would be disruption to delivery of other service caused by staff having to spend time dealing with the request.
- Much of the requested environmental information consists of information that was provided to Homes England by third parties. Homes England may be required to consult with involved third parties about the disclosure of the environmental information and considers that the review of this information would place a disproportionate burden on the other third parties involved.
- The documents consist of text, agreements and correspondence relating to the development of Lunsdale East that have been created from 1990 onwards. We estimate that reviewing the information held would take in excess of 188 hours of staff time to review, determine, and extract the requested information. This is calculated at 10 minutes per file for physical (paper) files and 6 minutes per file for electronic files. This time calculation includes determining that we hold the information, locating, retrieving and extracting the information, identifying any environmental

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information that would engage regulation 12(5)(e) of the EIR and regulation 13 of the EIR, conducting the Public Interest Test and applying redactions if appropriate. We do not consider that this is a proportionate use of our limited resources and will again impact our ability to respond to other requests and disrupt the delivery of Homes England's work.

- Homes England has been unable to identify a wider public interest in disclosing the information requested.

Having considered the argument for and against disclosure of the information, we have concluded that at this time, the balance of the public interest continues to favour non-disclosure.

### **Advice and Assistance**

Regulation 9(1) of the EIR provides that an authority must provide advice and assistance to applicants. In accordance with this we have provided some specific advice below relating to the nature of the requested information, in order to assist you with any future requests on this matter.

Prior to the drawdown of any land by Luneside East Limited, officers at Lancaster City Council had to write to Homes England's predecessors to secure a Land Registry compliant consent so that the grant of the lease(s) by the Council to Luneside East Limited could be registered at the Land Registry. Officers at Homes England were sighted on each drawdown and this included the drawdown for the student accommodation. The Homes England restriction on title did not pass on to the Luneside East Limited leasehold title(s) as there was no obligation on Luneside East Limited to register a restriction in favour of Homes England.

From the review of our electronic records that has already been undertaken by officers at Homes England, as part of processing your request, it is understood that Homes England were not a party to any legal agreements with Luneside East Limited.

Homes England were however sighted on the various change(s) to the Development Agreement dated 2 November 2005 and was also notified of the reduction in outputs that took place during the term of the Development Agreement, most notably in 2012.

It should also be noted that Homes England were also sighted on the use of additional funding from Lancashire County Council to Luneside East Limited under their Growing Places programme. It may be of some assistance to you to review information that is available publicly at Companies House, there are copies of satisfied security documentation between Luneside East Limited and Lancashire County Council..







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In relation to the ERDF provided to the scheme, the responsible body for that programme is the Ministry of Housing, Communities and Local Government of the United Kingdom. Homes England is not responsible for the legacy ERDF programmes. The Ministry's contact details for an FOI request are [FOI@communities.gov.uk](mailto:FOI@communities.gov.uk).

Finally, the wording of your request to "provide all copies of correspondence" relating to your eight questions is the major factor in engaging regulation 12(4)(b) of the EIR. We would strongly recommend that any revised request does not include such a broad request, and this could be narrowed by date, recipients or limited in scope to the documents/decisions themselves rather than all associated correspondence.

Please note that due to the broad scope of your request we cannot confirm that any further request would not also be considered manifestly unreasonable pursuant to regulation 12(4)(b) of the EIR.

For further assistance the Information Commissioner's Office have some useful information online that you might find helpful:

<https://ico.org.uk/for-the-public/official-information/how-to-write-an-effective-request-for-information/>

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### Right to make Representations

2<sup>nd</sup> Floor  
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If you are not happy with the information that has been provided or the way in which your request has been handled, you may request a reconsideration of our response (Internal Review). You can make this representation by writing to Homes England via the details below, quoting the reference number at the top of this letter.

Email: [infogov@homesengland.gov.uk](mailto:infogov@homesengland.gov.uk)

The Information Governance Team  
Homes England  
2<sup>nd</sup> Floor  
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Your request for reconsideration must be made in writing, explain why you wish to appeal, and be received within 40 working days of the date of this response (Reg 11(2)). Failure to meet this criteria may lead to your request being refused.

Upon receipt, your request for reconsideration will be passed to an independent party not involved in your original request. We aim to issue a response within 20 working days.

You may also complain to the Information Commissioner's Office (ICO) however, the Information Commissioner does usually expect the internal review procedure to be exhausted in the first instance.

The Information Commissioner's details can be found via the following link <https://ico.org.uk/>  
Please note that the contents of your request and this response are also subject to the Freedom of Information Act 2000. Homes England may be required to disclose your request and our response accordingly.

Yours sincerely,

**The Information Governance Team**  
For Homes England

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